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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,901	03/01/2004	Jeffrey C. Smith	127-0007-2	2607
22120 7590 02/12/2009 ZAGORIN O'BRIEN GRAHAM LLP 7600B NORTH CAPITAL OF TEXAS HIGHWAY SUITE 350 AUSTIN, TX 78731				
EXAMINER				
SCHMIDT, KARI L				
ART UNIT		PAPER NUMBER		
2439				
MAIL DATE		DELIVERY MODE		
02/12/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/790,901

Applicant(s)

SMITH ET AL.

Examiner

KARI L. SCHMIDT

Art Unit

2439

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 04 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-33 and 36-41.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Kambiz Zand/
Supervisory Patent Examiner, Art Unit 2434

Continuation of 3. NOTE: The newly added claims 39-41 require further consideration and/or search..

Continuation of 11. does NOT place the application in condition for allowance because: With respect to the applicant's arguments filed on 2/4/2009, the applicant argues the examiner has misapprehended the applied art. The examiner disagrees and examiner notes that the examiner has taken an interpretation from the applied art of Dickinson with an explanation of how the applied art of Dickinson reads on the applicant's claimed invention. This argument is not persuasive.

With respect to claim 1, the applicant argues that Dickinson fails to disclose "notification includes package identification data" and "responsive to receipt of the package identification data from a selected on of the recipients, providing the selected recipient with access to the package." The examiner disagrees.

The examiner notes that Dickinson discloses "notification includes package identification data" (see at least, page 7 lines 13-16) and "responsive to receipt of the package identification data from a selected on of the recipients, providing the selected recipient with access to the package" (see at least, page 13, line 19-page 14, line 20). The examiner notes that Dickinson discloses that notifications can be sent to a sender or recipient or system administrator (see at least, page 7, lines 13-16). Further Dickinson discloses that a notification message can be accompanied with the original message and are triggered by a given policy (see at least, page 13, line 31-page 14, line 7). Therefore the Examiner interprets a notification message is accompanied with a actual message therefore the notification would be tied and include data regarding the original message that it is accompanied with (e.g. package identification data). Further the examiner notes that Dickinson discloses the disposition action is used with respect to the notification and original message (see at least, page 13, lines 31-page 14, line 20). The examiner has interpreted that a deferred message is a disposition action in which the original message is sent later at a later/future time. Further the examiner notes the notification message as shown in Figure 6(b) is used as a basis of judgment with respect to the disposition action (e.g. step 623 Continue). Therefore the examiner has interpreted that a notification message can trigger polices in which a notification message is accompanied with the original message and therefore the notification message requires a response before the deferred message can be delivered to the given destination (see at least, page 13, lines 31-page 14, line 20 and Figure 6(b)) and therefore reads on the applicants claimed limitations of "notification includes package identification data" and "responsive to receipt of the package identification data from a selected on of the recipients, providing the selected recipient with access to the package". Therefore this argument is not persuasive.

With respect to claim 27 and 30, the applicant argues that Dickinson fails to disclose "wherein the notification includes package identification data usable by the particular recipient to retrieve the package from at least one of the servers" and "a notification message that includes package identification data usable by the particular recipient to retrieve the package from the service". The examiner disagrees.

The examiner notes that Dickinson discloses that "wherein the notification includes package identification data usable by the particular recipient to retrieve the package from at least one of the servers" (see at least page 13, line 19-page 14, line 20). The examiner notes that Dickinson discloses that notification message is accompanied with a actual message therefore the notification would be tied and include data regarding the original message that it is accompanied with (e.g. package identification data) (see at least, page 13, line 19-page 14, line 7). Further the examiner notes that a message can be retrieved from the server by the recipient (see at least, Figure 5(b) and 5(c) and further interprets the server can be a service). The examiner notes that a message would be retrieved from the server and sent to the recipient (see at least, page 13, line 5: the examiner notes transmitting the message to the client to be retrieving from a server). Further the examiner notes that Dickinson discloses the disposition action is used with respect to the notification and original message (see at least, page 13, lines 31-page 14, line 20). The examiner has interpreted that a deferred message is a disposition action in which the original message is sent later at a later/future time. Further the examiner notes the notification message as shown in Figure 6(b) is used as a basis of judgment with respect to the disposition action (e.g. step 623 Continue). Therefore the examiner has interpreted that a notification message can trigger polices in which a notification message is accompanied with the original message and therefore the notification message requires a response before the deferred message can be delivered to the given destination from the mail server. Further the original/deferred message is tied with respect to the notification message (e.g. accompanied) (see at least, page 13, lines 31-page 14, line 20 and Figure 5(b), (c) and 6(b)) and therefore reads on the applicants claimed limitations of "wherein the notification includes package identification data usable by the particular recipient to retrieve the package from at least one of the servers". Therefore these arguments are not persuasive..